

Department of Energy

§ 1015.302

§ 1015.215 Federal salary offset.

(a) DOE may authorize Treasury to offset a Federal salary to satisfy delinquent debt in accordance with 5 U.S.C. 5514, Installment Deduction for Indebtedness to the United States; 5 CFR 550.1101 through 550.1108, Collection by Offset from Indebted Government Employees; 31 CFR parts 900–904, the revised Federal Claims Collection Standards; and 31 CFR 285.7, Salary Offset. DOE shall ensure that all of the rights and protections afforded to the debtor under 5 U.S.C. 5514 and 31 CFR 901.3 have been fulfilled. Claims due from Federal employees will be collected in accordance with DOE Order 2200.2B, Collection from Current and Former Employees for Indebtedness to the United States.

(b) As described in § 1015.201(e), under the DCIA (31 U.S.C. 3711(g)), DOE is required to refer all debts over 180 days delinquent to Treasury for purposes of debt collection (*i.e.*, cross-servicing). As part of its regular debt collection procedures, Treasury may use Federal salary offset on behalf of DOE.

§ 1015.216 Exemptions.

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the DCIA, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1, *et seq.*); the Social Security Act (42 U.S.C. 301, *et seq.*) except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the DCIA, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting the use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in paragraph (a) of this sec-

tion unless the debt arose under those laws.

Subpart C—Standards for the Compromise of Claims

§ 1015.300 Scope.

This subpart sets forth the standards for the compromise of claims under this part. This subpart corresponds to 31 CFR part 902 of the Treasury Federal Claims Collection Standards.

§ 1015.301 Scope and application.

(a) The standards set forth in this subpart apply to the compromise of debts pursuant to 31 U.S.C. 3711. DOE's Chief Financial Officer or designee or Heads of Field Elements or designees in field locations may exercise such compromise authority for debts arising out of activities of, or referred or transferred for collection services to, DOE when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, does not exceed \$100,000 or any higher amount authorized by the Attorney General.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the DOJ. DOE will evaluate the compromise offer, using the factors set forth in this part. If an offer to compromise any debt in excess of \$100,000 is acceptable to DOE, DOE shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ using a Claims Collection Litigation Report (CCLR). DOE may obtain the CCLR from the DOJ's National Central Intake Facility. The referral shall include appropriate financial information and a recommendation for the acceptance of the compromise offer. DOJ approval is not required if DOE rejects a compromise offer.

§ 1015.302 Bases for compromise.

(a) DOE may compromise a debt if the Government cannot collect the full amount because:

(1) The debtor is unable to pay the full amount in a reasonable time, as

verified through credit reports or other financial information;

(2) The Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or

(4) There is significant doubt concerning the Government's ability to prove its case in court.

(b) In determining the debtor's inability to pay, DOE should consider relevant factors such as the following:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income that may be realized by enforced collection proceedings.

(c) DOE will verify the debtor's claim of inability to pay by using a credit report and other financial information as provided in paragraph (g) of this section. DOE will consider the applicable exemptions available to the debtor under state and Federal law in determining the Government's ability to enforce collection. DOE may also consider uncertainty as to the price that collateral or other property will bring at a forced sale in determining the Government's ability to enforce collection. A compromise effected under this section should be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to the exemptions available to the debtor and the time that collection will take.

(d) If there is significant doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a bona fide dispute as to the facts, then the amount accepted in compromise of such cases should fairly reflect the probabilities of successful prosecution to judgment, with due regard given to the availability of witnesses and other evidentiary support for the Government's claim. In determining the litigative risks involved, DOE will con-

sider the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412, that may be imposed against the Government if it is unsuccessful in litigation.

(e) DOE may compromise a debt if the cost of collecting the debt does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, with consideration given to the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts. In determining whether the cost of collecting justifies enforced collection of the full amount, DOE should consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principle, such as the Government's willingness to pursue aggressively defaulting and uncooperative debtors.

(f) DOE generally will not accept compromises payable in installments. This is not an advantageous form of compromise in terms of time and administrative expense. If, however, payment of a compromise in installments is necessary, DOE will obtain a legally enforceable, written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. Whenever possible, DOE also will obtain security for repayment in the manner set forth in subpart B of this part.

(g) To assess the merits of a compromise offer based in whole or in part on the debtor's inability to pay the full amount of a debt within a reasonable time, DOE will, if feasible, obtain a current financial statement from the debtor, executed under penalty of perjury, showing the debtor's assets, liabilities, income, and expenses. DOE also may obtain credit reports or other financial information to assess compromise offers. DOE may use its own financial information form or may request suitable forms from the DOJ or the local United States Attorney's Office.